

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONT HEARD, et al.,

Plaintiffs,

v.

Case No. 1:13-CV-373

TOM FINCO, et al.,

HON. GORDON J. QUIST

Defendants.

**MEMORANDUM OPINION AND ORDER DENYING
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pro se Plaintiffs Lamont Heard, William Johnson, Jamero Moses, and Anthony Nelson are prisoners incarcerated with the Michigan Department of Corrections (MDOC) at Lakeland Correctional Facility. Plaintiffs allege that they are practicing Muslims and that, as part of their adherence to their religion, they fast from dawn until sunset each day during the Islamic month of Ramadan, which lasts for 29 to 30 days. (Compl. ¶¶ 15, 17, 41.) During the fasting hours, Muslims are required to refrain from consuming food, drinking liquids, and engaging in certain activities. (*Id.* ¶ 21.) They may resume eating and drinking after sunset until dawn the following day. (*Id.* ¶ 22.) Plaintiffs state that during Ramadan, “Muslims seek spiritual bliss, brotherhood and read the entire Holy Qur’an throughout the month. Muslims [sic] mind-set is of peace and oneness with Allah (GOD). There is no other alternative for this once a year experience.” (*Id.* ¶ 20.)

Plaintiffs allege that during past Ramadan observances, the MDOC has provided Muslim prisoners who choose to fast two meals per day—one before sunrise and one after sunset. (*Id.* ¶ 23.) Plaintiffs allege that these meals, which are served either as bagged meals or in the dining hall, provide only approximately 1,000 to 1,500 calories per day and therefore do not meet the MDOC’s mandated 2,900 calorie per day requirement for prisoners. (*Id.* ¶¶ 25, 26.) Plaintiffs claim that as a result of the reduced caloric intake during Ramadan, they became physically weak, lost weight, experienced hunger pains, and had a less fulfilling religious experience. (*Id.* ¶ 30.) Plaintiffs allege that they complained

about the insufficient nutrition offered to Muslims during Ramadan, but prison officials rejected their grievances, stating that a fast is by definition a lower caloric intake and that Muslim prisoners who choose to fast elect to consume fewer calories. (*Id.* ¶¶ 31, 34.) Plaintiffs have sued MDOC Deputy Director Tom Finco, MDOC Special Activity Coordinator Mike Martin, and MDOC Food Service Manager Brad Purves, alleging that their refusal to accommodate Plaintiffs' requests for adequate meals before the start and at the end of the daily fast during Ramadan violated their rights under the First and Eighth Amendments, as well as the Religious Land Use and Institutionalized Persons Act.

Plaintiffs have now filed a Motion for Preliminary Injunction (dkt. #14) seeking an order requiring Defendants to provide Plaintiffs adequate meals and nutrition during Ramadan 2013, which commences July 8, 2013 and concludes August 7, 2013. Pursuant to the Court's June 19, 2013 Order, Defendants have filed a Response. For the following reasons, the Court will deny Plaintiffs' motion.

"A preliminary injunction is an extraordinary remedy which should be granted only if the movant carries his or her burden of proving that circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban Cnty. Gov't*, 305 F.3d 566, 573 (6th Cir. 2002). Moreover, because Plaintiffs seek injunctive relief against prison officials concerning a matter of prison administration, this Court is required to proceed with the utmost care and must recognize the unique nature of the prison setting. *Kendrick v. Bland*, 740 F.2d 432, 438 n.3 (6th Cir. 1984).

In ruling on a motion for a preliminary injunction, a court considers four factors: "(1) whether the plaintiffs are likely to succeed on the merits; (2) whether the plaintiffs will suffer irreparable harm in the absence of an injunction; (3) whether granting the injunction will cause substantial harm to others; and (4) whether the issuance of the injunction is in the public interest." *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1249 (6th Cir. 1997). These are factors to be balanced, not prerequisites that must be met. *See Washington v. Reno*, 35 F.3d 1093, 1099 (6th Cir. 1994). A district court need not make

specific findings on each of the four factors if fewer factors are dispositive of the issue. *See In re DeLorean Motor Co.*, 755 F.2d 1223, 1229 (6th Cir. 1985).

In the instant case, Court need not address all of the factors because Plaintiffs have failed to demonstrate irreparable harm. The Supreme Court has emphasized that a plaintiff seeking injunctive relief must do more than show that irreparable harm is merely possible. Rather, “plaintiffs seeking preliminary relief [must] demonstrate that irreparable injury is *likely* in the absence of an injunction.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22, 129 S. Ct. 365, 375 (2008). In evaluating the harm that will occur depending on whether preliminary injunctive relief is granted, courts consider three factors: (1) the substantiality of the injury alleged; (2) the likelihood of its occurrence; and (3) the adequacy of the moving party’s proof. *Mich. Coal. of Radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 154 (6th Cir. 1991) (citing *Ohio ex rel. Celebrezze v. Nuclear Regulatory Comm’n*, 812 F.2d 288, 290 (6th Cir. 1987)). Moreover, “[w]hen courts consider irreparable harm, the key word . . . is irreparable, and the possibility that adequate compensatory or other corrective relief will be available at a later date . . . weighs heavily against [the] claim.” *Brake Parts, Inc. v. Lewis*, 443 F. App’x 27, 32 (6th Cir. 2011) (internal quotations and alterations omitted).

In their Response, Defendants note that, contrary to Plaintiff’s assertion, MDOC Policy Directive 04.07.100, titled “Offender Meals,” does not specify a minimum caloric meal value. Defendant Purves explains in his affidavit that the MDOC’s Statewide Standard Menu provides prisoners 2,600 calories per day. (Purves Aff. ¶ 4, Defs.’ Resp. to Pls.’ Mot. Ex. 2.) According to Purves, the MDOC sets its caloric intake level based on Dietary Reference intake values approved by the National Research Council (NRC). (*Id.* ¶ 3.) The NRC recommends a daily caloric intake of 2,600 to 2,800 for moderately active men in their 20s; a daily caloric intake of 2,400 to 2,600 for moderately active men in their 30s and 40s; and a daily caloric intake of 2,200 to 2,400 for moderately active men after 50. (*Id.*) The

MDOC specifies 2,600 calories per day because that number meets the needs of 95% of male prisoners in the general population. (*Id.* ¶ 4.) Purves states that all Plaintiffs are between 36 and 46 years of age. (*Id.*) Thus, when Plaintiffs are moderately active, a daily caloric intake of between 2,400 to 2,600 calories meets their recommended caloric intake.

Purves also states that the Ramadan meal plan Plaintiffs attach to their Motion is not the meal plan that will be used for the 2013 Ramadan observance. Instead, the 2013 meal plan offers four different meal options to prisoners who choose to fast, and provides a daily caloric content ranging from 2,350 to 2,594 calories. (*Id.* ¶ 6.) Purves also confirms that a registered dietician with the MDOC has determined that a daily caloric intake of 2,350 to 2,594 calories will not pose a health risk to healthy, moderately active males. (*Id.* ¶ 7.)

In light of the information set forth in Purves's affidavit, Plaintiffs have failed to demonstrate that they are likely to suffer irreparable harm absent injunctive relief. First, Plaintiffs' motion is based on an out-of-date meal plan that will not apply to the 2013 Ramadan observance. Second, Defendants have shown that the meal plan for the 2013 Ramadan observance provides between 2,350 and 2,594 calories per day, which substantially meets the recommended calorie requirements for most moderately active prisoners—defined as “a lifestyle that includes physical activity equivalent to walking about 1.5 to 3 miles per day at 3 to 4 miles per hour, in addition to the light physical activity associated with typical day-to-day life.” (Purves Aff. ¶ 3 (quoting 2010 Dietary Guidelines for Americans).) Third, Plaintiffs wholly fail to show that they will suffer any harm from a slight reduction in their daily caloric intake during the 30-day Ramadan observance. As Defendants note, because Ramadan is a time of constant prayer and reflection, it is questionable whether an observant Muslim would be deemed moderately active during Ramadan. Finally, to the extent Plaintiffs seek additional food during

